

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Civil Action No. 5:20-CV-00524-FL**

**JAMES BLACKMON, by and through his  
GUARDIAN OF THE ESTATE, PAUL  
TRUETT CANADY, II,**

**Plaintiff,**

**v.**

**JAMES HOLDER, in his individual  
capacity, ANDREW MUNDAY, in his  
individual capacity, and THE CITY OF  
RALEIGH,**

**Defendants.**

**DEFENDANT JAMES HOLDER’S  
MOTION TO DISMISS**

NOW COMES Defendant James Holder (“Holder”), in his individual capacity, through counsel, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), and hereby moves the Court for entry of an Order dismissing all of Plaintiff’s claims asserted against him in the Plaintiff’s Complaint (D.E. 1). Plaintiff’s Complaint fails to state a claim upon which relief may be granted for the following reasons, *inter alia*:

1. Plaintiff’s federal and state claims are barred by N.C. Gen. Stat. § 1-52(16), North Carolina’s statute of repose;
2. Counts I, II and III of Plaintiff’s Complaint are barred by the *Rooker-Feldman* doctrine;
3. All of Plaintiff’s claims alleged against Holder, including Counts I, II, and III of Plaintiff’s Complaint, are barred by qualified immunity;
4. Plaintiff’s Claims brought directly under the North Carolina Constitution should be dismissed because Plaintiff has adequate remedies at state law; and

5. There is no cognizable obstruction of justice claim in North Carolina and Plaintiff's civil conspiracy claim is barred by the intracorporate conspiracy doctrine.

Pursuant to E.D.N.C. Local Civil Rules 7.1 and 7.2, an accompanying memorandum of law is filed contemporaneously herewith.

WHEREFORE, Defendant James Holder respectfully requests that the Court issue an Order dismissing the Plaintiff's Complaint in its entirety, and with prejudice.

Respectfully submitted this 23<sup>rd</sup> day of December, 2020.

/s/ Jason R. Benton

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this date, the foregoing **Defendant James Holder's Motion to Dismiss** was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification and serve same upon counsel of record via the Court's electronic case filing system.

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This the 23<sup>rd</sup> day of December, 2020.

/s/ Jason R. Benton

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